Rep. David E. Miller

Filed: 2/28/2006

AMENDMENT TO HOUSE BILL 5542

AMENDMENT NO. _____. Amend House Bill 5542 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Controlled Substances Act is amended by changing Sections 102, 201, 202, 214, 301, 302, 303, 303.05, 303.1, 304, 305, 306, 309, 312, 313, 316, 317, 318, 319, 320, 405, 405.1, 410, 501, 501.1, and 507 as follows:

(720 ILCS 570/102) (from Ch. 56 1/2, par. 1102)

Sec. 102. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Addict" means any person who habitually uses any drug, chemical, substance or dangerous drug other than alcohol so as to endanger the public morals, health, safety or welfare or who is so far addicted to the use of a dangerous drug or controlled substance other than alcohol as to have lost the power of self control with reference to his addiction.

(b) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient, research subject, or animal (as defined by the Humane Euthanasia in Animal Shelters Act) by:

(1) a practitioner (or, in his presence, by his authorized agent),

(2) the patient or research subject at the lawful

direction of the practitioner, or

(3) a euthanasia technician as defined by the Humane Euthanasia in Animal Shelters Act.

(c) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(c-1) "Anabolic Steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

(i) boldenone,

(ii) chlorotestosterone,

(iii) chostebol,

(iv) dehydrochlormethyltestosterone,

(v) dihydrotestosterone,

(vi) drostanolone,

(vii) ethylestrenol,

(viii) fluoxymesterone,

(ix) formebulone,

(x) mesterolone,

(xi) methandienone,

(xii) methandranone,

(xiii) methandriol,

(xiv) methandrostenolone,

(xv) methenolone,

(xvi) methyltestosterone,

(xvii) mibolerone,

(xviii) nandrolone,

(xix) norethandrolone,

(xx) oxandrolone,

(xxi) oxymesterone,

(xxii) oxymetholone,

(xxiii) stanolone,

(xxiv) stanozolol,

(xxv) testolactone,

(xxvi) testosterone,

(xxvii) trenbolone, and

(xxviii) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

Any person who is otherwise lawfully in possession of an anabolic steroid, or who otherwise lawfully manufactures, distributes, dispenses, delivers, or possesses with intent to deliver an anabolic steroid, which anabolic steroid is expressly intended for and lawfully allowed to be administered through implants to livestock or other nonhuman species, and which is approved by the Secretary of Health and Human Services for such administration, and which the person intends to administer or have administered through such implants, shall not be considered to be in unauthorized possession or to unlawfully manufacture, distribute, dispense, deliver, or possess with intent to deliver such anabolic steroid for purposes of this Act.

(d) "Administration" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

(e) "Control" means to add a drug or other substance, or immediate precursor, to a Schedule under Article II of this Act whether by transfer from another Schedule or otherwise.

(f) "Controlled Substance" means a drug, substance, or immediate precursor in the Schedules of Article II of this Act.

(g) "Counterfeit substance" means a controlled substance, which, or the container or labeling of which, without authorization bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or

dispensed the substance.

(h) "Deliver" or "delivery" means the actual, constructive or attempted transfer of possession of a controlled substance, with or without consideration, whether or not there is an agency relationship.

(i) "Department" means the Illinois Department of Human Services (as successor to the Department of Alcoholism and Substance Abuse) or its successor agency.

(j) "Department of State Police" means the Department of State Police of the State of Illinois or its successor agency.

(k) "Department of Corrections" means the Department of Corrections of the State of Illinois or its successor agency.

(l) "Department of Financial and Professional Regulation" means the Department of Financial and Professional Regulation of the State of Illinois or its successor agency.

(m) "Depressant" or "stimulant substance" means:

(1) a drug which contains any quantity of (i) barbituric acid or any of the salts of barbituric acid which has been designated as habit forming under section 502 (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352 (d)); or

(2) a drug which contains any quantity of (i) amphetamine or methamphetamine and any of their optical isomers; (ii) any salt of amphetamine or methamphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Department, after investigation, has found to be, and by rule designated as, habit forming because of its depressant or stimulant effect on the central nervous system; or

(3) lysergic acid diethylamide; or

(4) any drug which contains any quantity of a substance which the Department, after investigation, has found to have, and by rule designated as having, a potential for abuse because of its depressant or stimulant effect on the

central nervous system or its hallucinogenic effect.

(n) (Blank).

(o) "Director" means the Director of the Department of State Police ~~or the Department of Professional Regulation~~ or his or her designated agents.

(p) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a prescriber, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(q) "Dispenser" means a practitioner who dispenses.

(r) "Distribute" means to deliver, other than by administering or dispensing, a controlled substance.

(s) "Distributor" means a person who distributes.

(t) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure of any function of the body of man or animals and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(t-1) "Drug Schedule" means the classification system established by the federal Food and Drug Administration and the federal Drug Enforcement Administration and Illinois under this Act.

(t-5) "Euthanasia agency" means an entity certified by the Department of Professional Regulation for the purpose of animal euthanasia that holds an animal control facility license or animal shelter license under the Animal Welfare Act. A euthanasia agency is authorized to purchase, store, possess,

and utilize Schedule II nonnarcotic and Schedule III nonnarcotic drugs for the sole purpose of animal euthanasia.

(t-10) "Euthanasia drugs" means Schedule II or Schedule III substances (nonnarcotic controlled substances) that are used by a euthanasia agency for the purpose of animal euthanasia.

(u) "Good faith" means the prescribing or dispensing of a controlled substance by a practitioner in the regular course of professional treatment to or for any person who is under his treatment for a pathology or condition other than that individual's physical or psychological dependence upon or addiction to a controlled substance, except as provided herein: and application of the term to a pharmacist shall mean the dispensing of a controlled substance pursuant to the prescriber's order which in the professional judgment of the pharmacist is lawful. The pharmacist shall be guided by accepted professional standards including, but not limited to the following, in making the judgment:

(1) lack of consistency of doctor-patient relationship,

(2) frequency of prescriptions for same drug by one prescriber for large numbers of patients,

(3) quantities beyond those normally prescribed,

(4) unusual dosages,

(5) unusual geographic distances between patient, pharmacist and prescriber,

(6) consistent prescribing of habit-forming drugs.

(u-1) "Home infusion services" means services provided by a pharmacy in compounding solutions for direct administration to a patient in a private residence, long-term care facility, or hospice setting by means of parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion.

(v) "Immediate precursor" means a substance:

(1) which the Department has found to be and by rule designated as being a principal compound used, or produced

primarily for use, in the manufacture of a controlled substance;

(2) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and

(3) the control of which is necessary to prevent, curtail or limit the manufacture of such controlled substance.

(w) "Instructional activities" means the acts of teaching, educating or instructing by practitioners using controlled substances within educational facilities approved by the State Board of Education or its successor agency.

(x) "Local authorities" means a duly organized State, County or Municipal peace unit or police force.

(y) "Look-alike substance" means a substance, other than a controlled substance which (1) by overall dosage unit appearance, including shape, color, size, markings or lack thereof, taste, consistency, or any other identifying physical characteristic of the substance, would lead a reasonable person to believe that the substance is a controlled substance, or (2) is expressly or impliedly represented to be a controlled substance or is distributed under circumstances which would lead a reasonable person to believe that the substance is a controlled substance. For the purpose of determining whether the representations made or the circumstances of the distribution would lead a reasonable person to believe the substance to be a controlled substance under this clause (2) of subsection (y), the court or other authority may consider the following factors in addition to any other factor that may be relevant:

(a) statements made by the owner or person in control of the substance concerning its nature, use or effect;

(b) statements made to the buyer or recipient that the substance may be resold for profit;

(c) whether the substance is packaged in a manner normally used for the illegal distribution of controlled substances;

(d) whether the distribution or attempted distribution included an exchange of or demand for money or other property as consideration, and whether the amount of the consideration was substantially greater than the reasonable retail market value of the substance.

Clause (1) of this subsection (y) shall not apply to a noncontrolled substance in its finished dosage form that was initially introduced into commerce prior to the initial introduction into commerce of a controlled substance in its finished dosage form which it may substantially resemble.

Nothing in this subsection (y) prohibits the dispensing or distributing of noncontrolled substances by persons authorized to dispense and distribute controlled substances under this Act, provided that such action would be deemed to be carried out in good faith under subsection (u) if the substances involved were controlled substances.

Nothing in this subsection (y) or in this Act prohibits the manufacture, preparation, propagation, compounding, processing, packaging, advertising or distribution of a drug or drugs by any person registered pursuant to Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

(y-1) "Mail-order pharmacy" means a pharmacy that is located in a state of the United States, other than Illinois, that delivers, dispenses or distributes, through the United States Postal Service or other common carrier, to Illinois residents, any substance which requires a prescription.

(z) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance other than methamphetamine, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical

synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling of its container, except that this term does not include:

(1) by an ultimate user, the preparation or compounding of a controlled substance for his own use; or

(2) by a practitioner, or his authorized agent under his supervision, the preparation, compounding, packaging, or labeling of a controlled substance:

(a) as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) as an incident to lawful research, teaching or chemical analysis and not for sale.

(z-1) (Blank).

(aa) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salts, compound, isomer, salt of an isomer, derivative, or preparation of coca leaves including cocaine or ecgonine, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or

ecgonine (for the purpose of this paragraph, the term "isomer" includes optical, positional and geometric isomers).

(bb) "Nurse" means a registered nurse licensed under the Nursing and Advanced Practice Nursing Act.

(cc) (Blank).

(dd) "Opiate" means any substance having an addiction forming or addiction sustaining liability similar to morphine or being capable of conversion into a drug having addiction forming or addiction sustaining liability.

(ee) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

(ff) "Parole and Pardon Board" means the Parole and Pardon Board of the State of Illinois or its successor agency.

(gg) "Person" means any individual, corporation, mail-order pharmacy, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity.

(hh) "Pharmacist" means any person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987.

(ii) "Pharmacy" means any store, ship or other place in which pharmacy is authorized to be practiced under the Pharmacy Practice Act of 1987.

(jj) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(kk) "Practitioner" means a physician licensed to practice medicine in all its branches, dentist, podiatrist, veterinarian, scientific investigator, pharmacist, physician assistant, advanced practice nurse, licensed practical nurse, registered nurse, hospital, laboratory, or pharmacy, or other person licensed, registered, or otherwise lawfully permitted by the United States or this State to distribute, dispense,

conduct research with respect to, administer or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(ll) "Pre-printed prescription" means a written prescription upon which the designated drug has been indicated prior to the time of issuance and does not mean a written prescription which is computer generated individually in the prescriber's office.

(mm) "Prescriber" means a physician licensed to practice medicine in all its branches, dentist, podiatrist or veterinarian who issues a prescription, a physician assistant who issues a prescription for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and the written guidelines required under Section 7.5 of the Physician Assistant Practice Act of 1987, or an advanced practice nurse with prescriptive authority in accordance with Section 303.05 and a written collaborative agreement under Sections 15-15 and 15-20 of the Nursing and Advanced Practice Nursing Act.

(nn) "Prescription" means a lawful written, computer generated, facsimile, or verbal order (1) of a physician licensed to practice medicine in all its branches, dentist, podiatrist or veterinarian for any controlled substance, or (2) of a physician assistant for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and the written guidelines required under Section 7.5 of the Physician Assistant Practice Act of 1987, or of an advanced practice nurse who issues a prescription for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and a written collaborative agreement under Sections 15-15 and 15-20 of the Nursing and Advanced Practice Nursing Act. Computer generated or created orders or prescriptions must be signed and dated at the time of issuance unless electronic signatures are authorized by federal law for controlled substances.

(oo) "Production" or "produce" means manufacture,

planting, cultivating, growing, or harvesting of a controlled substance other than methamphetamine.

(pp) "Registrant" means every person who is required to register under Section 302 of this Act.

(qq) "Registry number" means the number assigned to each person authorized to handle controlled substances under the laws of the United States and of this State.

(rr) "Secretary" means the Secretary of the Department Financial and Professional Regulation or the Department of Human Services or his or her designated agents.

(ss) ~~(rr)~~ "State" includes the State of Illinois and any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(tt) ~~(ss)~~ "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or her or by a member of his or her household.

(Source: P.A. 93-596, eff. 8-26-03; 93-626, eff. 12-23-03; 94-556, eff. 9-11-05.)

(720 ILCS 570/201) (from Ch. 56 1/2, par. 1201)

Sec. 201. (a) The Department shall carry out the provisions of this Article. The Department or its successor agency may add substances to or delete or reschedule all controlled substances in the Schedules of Sections ~~204, 206,~~ 208, 210 and 212 of this Act by administrative rule. In making a determination regarding the addition, deletion, or rescheduling of a substance, the Department shall consider the following:

(1) the actual or relative potential for abuse;

(2) the scientific evidence of its pharmacological effect, if known;

(3) the state of current scientific knowledge regarding the substance;

(4) the history and current pattern of abuse;

(5) the scope, duration, and significance of abuse;

(6) the risk to the public health;

(7) the potential of the substance to produce psychological or physiological dependence;

(8) whether the substance is an immediate precursor of a substance already controlled under this Article;

(9) the immediate harmful effect in terms of potentially fatal dosage; and

(10) the long-range effects in terms of permanent health impairment.

(b) (Blank).

(c) (Blank).

(d) If any substance is scheduled, rescheduled, or deleted as a controlled substance under Federal law and notice thereof is given to the Department, the Department shall similarly control the substance under this Act after the expiration of 30 days from publication in the Federal Register of a final order scheduling a substance as a controlled substance or rescheduling or deleting a substance, unless within that 30 day period the Department objects, or a party adversely affected files with the Department substantial written objections objecting to inclusion, rescheduling, or deletion. In that case, the Department shall publish the reasons for objection or the substantial written objections and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the Department shall publish its decision, by means of a rule, which shall be final unless altered by statute. Upon publication of objections by the Department, similar control under this Act whether by inclusion, rescheduling or deletion is stayed until the Department publishes its ruling.

(e) The Department shall by rule exclude any non-narcotic substances from a schedule if such substance may, under the Federal Food, Drug, and Cosmetic Act, be lawfully sold over the

counter without a prescription.

(f) Dextromethorphan shall not be deemed to be included in any schedule by reason of enactment of this title unless controlled after the date of such enactment pursuant to the foregoing provisions of this section.

(g) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in the Liquor Control Act and the Tobacco Products Tax Act.

(Source: P.A. 91-714, eff. 6-2-00.)

(720 ILCS 570/202) (from Ch. 56 1/2, par. 1202)

Sec. 202. Schedules.

(a) The scheduled controlled substances shall be those listed ~~or to be listed~~ in the schedules in Sections ~~sections~~ 204, 206, 208, 210 and 212 and by administrative rule and are included by whatever official, common, usual, chemical, or trade name designated.

(b) A Prescription Drug Advisory Committee shall be formed in order to:

(1) provide a uniform approach to review the Illinois Controlled Substances Act in order to determine if changes should be recommended to the General Assembly.

(2) review current drug schedules in order to manage changes to the administrative rules pertaining to the utilization of this Act.

(c) The Advisory Committee shall consist of:

(1) A representative from the Illinois Department of Human Services, Bureau of Pharmacy and Clinical Support Services or its successor.

(2) A representative from the Illinois Department of Human Services, Division of Alcoholism and Substance Abuse.

(3) A representative from the Illinois Department of

Financial and Professional Regulation Division of Professional Regulation.

(4) A representative from the Illinois Hospice and Palliative Care Organization.

(5) A representative from the Illinois Academy of Family Physicians.

(6) A representative from the Illinois State Medical Society.

(7) A representative from the Illinois State Dental Society.

(8) A representative from the Illinois Osteopathic Medical Society.

(9) A representative from the Illinois Pharmacists Association.

(10) A representative from the Illinois Psychiatric Society.

(11) A representative from the Illinois Society of Anesthesiologists.

(d) The Secretary of the Department of Human Services shall designate the chairperson of the Advisory Committee. The Advisory Committee may appoint its other officers as it deems appropriate.

(e) The members shall receive no compensation for the their services as members of the Advisory Committee, but may be reimbursed for reasonable travel expenses from the Prescription Monitoring Program budget line.

(Source: P.A. 77-757.)

(720 ILCS 570/214) (from Ch. 56 1/2, par. 1214)

Sec. 214. Excluded Substances.

(a) Products containing an anabolic steroid, that are expressly intended for administration through implants to cattle or other nonhuman species and that have been approved by the U.S. Secretary of Health and Human Services for that

administration, and that are excluded from all schedules under Section 102(41)(B)(1) of the federal Controlled Substances Act (21 U.S.C. 802(41)(B)(1)) are also excluded from Sections 207 and 208 of this Act.

(b) The non-narcotic substances excluded from all schedules of the Federal Controlled Substances Act (21 U.S.C. 801 et seq.) pursuant to Section 1308.22 of the Code of Federal Regulations (21 C.F.R. 1308.22), are excluded from all schedules of this Act.

(Source: P.A. 91-714, eff. 6-2-00.)

(720 ILCS 570/301) (from Ch. 56 1/2, par. 1301)

Sec. 301. The Department of Financial and Professional Regulation shall promulgate rules and charge reasonable fees and fines relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this State. All moneys received by the Department of Financial and Professional Regulation under this Act shall be deposited into the respective professional dedicated funds in like manner as the primary professional licenses.

(Source: P.A. 89-204, eff. 1-1-96.)

(720 ILCS 570/302) (from Ch. 56 1/2, par. 1302)

Sec. 302. (a) Every person who manufactures, distributes, or dispenses any controlled substances, or engages in chemical analysis, and instructional activities which utilize controlled substances, or who purchases, stores, or administers euthanasia drugs, within this State or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance, or to engage in chemical analysis, and instructional activities which utilize controlled substances, or to engage in purchasing, storing, or administering euthanasia drugs, within this State, must obtain

a registration issued by the Department of Financial and Professional Regulation in accordance with its rules. The rules shall include, but not be limited to, setting the expiration date and renewal period for each registration under this Act. The Department, and any facility or service licensed by the Department, shall be exempt from the regulation requirements of this Section.

(b) Persons registered by the Department of Financial and Professional Regulation under this Act to manufacture, distribute, or dispense controlled substances, or purchase, store, or administer euthanasia drugs, may possess, manufacture, distribute, or dispense those substances, or purchase, store, or administer euthanasia drugs, to the extent authorized by their registration and in conformity with the other provisions of this Article.

(c) The following persons need not register and may lawfully possess controlled substances under this Act:

(1) an agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his employer's lawful business or employment;

(2) a common or contract carrier or warehouseman, or an agent or employee thereof, whose possession of any controlled substance is in the usual lawful course of such business or employment;

(3) an ultimate user or a person in possession of any controlled substance pursuant to a lawful prescription of a practitioner or in lawful possession of a Schedule V substance;

(4) officers and employees of this State or of the United States while acting in the lawful course of their official duties which requires possession of controlled substances;

(5) a registered pharmacist who is employed in, or the

owner of, a pharmacy licensed under this Act and the Federal Controlled Substances Act, at the licensed location, or if he is acting in the usual course of his lawful profession, business, or employment.

(d) A separate registration is required at each place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances, or purchases, stores, or administers euthanasia drugs. Persons are required to obtain a separate registration for each place of business or professional practice where controlled substances are located or stored. A separate registration is not required for every location at which a controlled substance may be prescribed.

(e) The Department of Financial and Professional Regulation or the Department of State Police may inspect the controlled premises, as defined in Section 502 of this Act, of a registrant or applicant for registration in accordance with this Act and the rules promulgated hereunder and with regard to persons licensed by the Department, in accordance with subsection (bb) of Section 30-5 of the Alcoholism and Other Drug Abuse and Dependency Act and the rules and regulations promulgated thereunder.

(Source: P.A. 93-626, eff. 12-23-03.)

(720 ILCS 570/303) (from Ch. 56 1/2, par. 1303)

Sec. 303. (a) The Department of Financial and Professional Regulation shall license an applicant to manufacture, distribute or dispense controlled substances included in Sections 204, 206, 208, 210 and 212 of this Act or purchase, store, or administer euthanasia drugs unless it determines that the issuance of that license would be inconsistent with the public interest. In determining the public interest, the Department of Financial and Professional Regulation shall consider the following:

(1) maintenance of effective controls against diversion of controlled substances into other than lawful medical, scientific, or industrial channels;

(2) compliance with applicable Federal, State and local law;

(3) any convictions of the applicant under any law of the United States or of any State relating to any controlled substance;

(4) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

(5) furnishing by the applicant of false or fraudulent material in any application filed under this Act;

(6) suspension or revocation of the applicant's Federal registration to manufacture, distribute, or dispense controlled substances, or purchase, store, or administer euthanasia drugs, as authorized by Federal law;

(7) whether the applicant is suitably equipped with the facilities appropriate to carry on the operation described in his application;

(8) whether the applicant is of good moral character or, if the applicant is a partnership, association, corporation or other organization, whether the partners, directors, governing committee and managing officers are of good moral character;

(9) any other factors relevant to and consistent with the public health and safety; and

(10) evidence from court, medical disciplinary and pharmacy board records and those of State and Federal investigatory bodies that the applicant has not or does not prescribe controlled substances within the provisions of this Act.

(b) No license shall be granted to or renewed for any

person who has within 5 years been convicted of a wilful violation of any law of the United States or any law of any State relating to controlled substances, or who is found to be deficient in any of the matters enumerated in subsections (a)(1) through (a)(8).

(c) Licensure under subsection (a) does not entitle a registrant to manufacture, distribute or dispense controlled substances in Schedules I or II other than those specified in the registration.

(d) Practitioners who are licensed to dispense any controlled substances in Schedules II through V are authorized to conduct instructional activities with controlled substances in Schedules II through V under the law of this State.

(e) If an applicant for registration is registered under the Federal law to manufacture, distribute or dispense controlled substances, or purchase, store, or administer euthanasia drugs, upon filing a completed application for licensure in this State and payment of all fees due hereunder, he shall be licensed in this State to the same extent as his Federal registration, unless, within 30 days after completing his application in this State, the Department of Financial and Professional Regulation notifies the applicant that his application has not been granted. A practitioner who is in compliance with the Federal law with respect to registration to dispense controlled substances in Schedules II through V need only send a current copy of that Federal registration to the Department of Financial and Professional Regulation and he shall be deemed in compliance with the registration provisions of this State.

(e-5) Beginning July 1, 2003, all of the fees and fines collected under this Section 303 shall be deposited into the Illinois State Pharmacy Disciplinary Fund.

(f) The fee for registration as a manufacturer or wholesale distributor of controlled substances shall be $50.00 per year,

except that the fee for registration as a manufacturer or wholesale distributor of controlled substances that may be dispensed without a prescription under this Act shall be $15.00 per year. The expiration date and renewal period for each controlled substance license issued under this Act shall be set by rule.

(Source: P.A. 93-32, eff. 7-1-03; 93-626, eff. 12-23-03.)

(720 ILCS 570/303.05)

Sec. 303.05. Mid-level practitioner registration.

(a) The Department of Financial and Professional Regulation shall register licensed physician assistants and licensed advanced practice nurses to prescribe and dispense Schedule III, IV, or V controlled substances under Section 303 and euthanasia agencies to purchase, store, or administer euthanasia drugs under the following circumstances:

(1) with respect to physician assistants or advanced practice nurses,

(A) the physician assistant or advanced practice nurse has been delegated prescriptive authority by a physician licensed to practice medicine in all its branches in accordance with Section 7.5 of the Physician Assistant Practice Act of 1987 or Section 15-20 of the Nursing and Advanced Practice Nursing Act; and

(B) the physician assistant or advanced practice nurse has completed the appropriate application forms and has paid the required fees as set by rule; or

(2) with respect to euthanasia agencies, the euthanasia agency has obtained a license from the Department of Professional Regulation and obtained a registration number from the Department.

(b) The mid-level practitioner shall only be licensed to prescribe those schedules of controlled substances for which a

licensed physician has delegated prescriptive authority, except that a euthanasia agency does not have any prescriptive authority.

(c) Upon completion of all registration requirements, physician assistants, advanced practice nurses, and euthanasia agencies shall be issued a mid-level practitioner controlled substances license for Illinois.

(Source: P.A. 93-626, eff. 12-23-03.)

(720 ILCS 570/303.1) (from Ch. 56 1/2, par. 1303.1)

Sec. 303.1. Any person who delivers a check or other payment to the Department of Financial and Professional Regulation that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of $50. If the check or other payment was for a renewal or issuance fee and that person practices without paying the renewal fee or issuance fee and the fine due, an additional fine of $100 shall be imposed. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department of Financial and Professional Regulation shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department of Financial and Professional Regulation shall automatically terminate the license or certificate or deny the application, without hearing. If, after termination or denial, the person seeks a license or certificate, he or she shall apply to the Department for restoration or issuance of the license or certificate and pay all fees and fines due to the Department. The Department of

Financial and Professional Regulation may establish a fee for the processing of an application for restoration of a license or certificate to pay all expenses of processing this application. The Director may waive the fines due under this Section in individual cases where the Director finds that the fines would be unreasonable or unnecessarily burdensome.
(Source: P.A. 89-507, eff. 7-1-97.)

(720 ILCS 570/304) (from Ch. 56 1/2, par. 1304)

Sec. 304. (a) A registration under Section 303 to manufacture, distribute, or dispense a controlled substance or purchase, store, or administer euthanasia drugs may be suspended or revoked by the Department of Financial and Professional Regulation upon a finding that the registrant:

(1) has furnished any false or fraudulent material information in any application filed under this Act; or

(2) has been convicted of a felony under any law of the United States or any State relating to any controlled substance; or

(3) has had suspended or revoked his Federal registration to manufacture, distribute, or dispense controlled substances or purchase, store, or administer euthanasia drugs; or

(4) has been convicted of bribery, perjury, or other infamous crime under the laws of the United States or of any State; or

(5) has violated any provision of this Act or any rules promulgated hereunder, or any provision of the Methamphetamine Precursor Control Act or rules promulgated thereunder, whether or not he has been convicted of such violation; or

(6) has failed to provide effective controls against the diversion of controlled substances in other than legitimate medical, scientific or industrial channels.

(b) The Department of Financial and Professional Regulation may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) The Department of Financial and Professional Regulation shall promptly notify the Administration, the Department and the Department of State Police or their successor agencies, of all orders denying, suspending or revoking registration, all forfeitures of controlled substances, and all final court dispositions, if any, of such denials, suspensions, revocations or forfeitures.

(d) If Federal registration of any registrant is suspended, revoked, refused renewal or refused issuance, then the Department of Financial and Professional Regulation shall issue a notice and conduct a hearing in accordance with Section 305 of this Act.

(Source: P.A. 93-626, eff. 12-23-03; 94-694, eff. 1-15-06.)

(720 ILCS 570/305) (from Ch. 56 1/2, par. 1305)

Sec. 305. (a) Before denying, refusing renewal of, suspending or revoking a registration, the Department of Financial and Professional Regulation shall serve upon the applicant or registrant, by registered mail at the address in the application or registration or by any other means authorized under the Civil Practice Law or Rules of the Illinois Supreme Court for the service of summons or subpoenas, a notice of hearing to determine why registration should not be denied, refused renewal, suspended or revoked. The notice shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the Department of Financial and Professional Regulation at a reasonable time and place. These proceedings shall be conducted in accordance with Sections 2105-5, 2105-15, 2105-100, 2105-105, 2105-110, 2105-115, 2105-120, 2105-125, 2105-175, and 2105-325 of the

Department of Financial and Professional Regulation Law (20 ILCS 2105/2105-5, 2105/2105-15, 2105/2105-100, 2105/2105-105, 2105/2105-110, 2105/2105-115, 2105/2105-120, 2105/2105-125, 2105/2105-175, and 2105/2105-325), without regard to any criminal prosecution or other proceeding. Except as authorized in subsection (c), proceedings to refuse renewal or suspend or revoke registration shall not abate the existing registration, which shall remain in effect until the Department of Financial and Professional Regulation has held the hearing called for in the notice and found, with input from the appropriate licensure or disciplinary board, that the registration shall no longer remain in effect.

(b) The Director may appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action to deny, refuse to renew, suspend, or revoke, or take any other disciplinary action with regard to a registration. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings and recommendations to the appropriate licensure or disciplinary board within 30 days after receiving the record. The Disciplinary Board shall have 60 days from receipt of the report to review the report of the hearing officer and present its findings of fact, conclusions of law, and recommendations to the Director.

(c) If the Department of Financial and Professional Regulation finds that there is an imminent danger to the public health or safety by the continued manufacture, distribution or dispensing of controlled substances by the registrant, the Department of Financial and Professional Regulation may, upon the issuance of a written ruling stating the reasons for such finding and without notice or hearing, suspend such registrant. The suspension shall continue in effect for not more than 14 days during which time the registrant shall be given a hearing on the issues involved in the suspension. If after the hearing,

and after input from the appropriate licensure or disciplinary board, the Department of Financial and Professional Regulation finds that the public health or safety requires the suspension to remain in effect it shall so remain until the ruling is terminated by its own terms or subsequent ruling or is dissolved by a circuit court upon determination that the suspension was wholly without basis in fact and law.

(d) If, after a hearing as provided in subsection (a), the Department of Financial and Professional Regulation finds that a registration should be refused renewal, suspended or revoked, a written ruling to that effect shall be entered. The Department of Financial and Professional Regulation's ruling shall remain in effect until the ruling is terminated by its own terms or subsequent ruling or is dissolved by a circuit court upon a determination that the refusal to renew suspension or revocation was wholly without basis in fact and law.

(Source: P.A. 91-239, eff. 1-1-00.)

(720 ILCS 570/306) (from Ch. 56 1/2, par. 1306)

Sec. 306. Every practitioner and person who is required under this Act to be registered to manufacture, distribute or dispense controlled substances or purchase, store, or administer euthanasia drugs under this Act shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of the laws of the United States and with any additional rules and forms issued by the Department of Financial and Professional Regulation.

(Source: P.A. 93-626, eff. 12-23-03.)

(720 ILCS 570/309) (from Ch. 56 1/2, par. 1309)

Sec. 309. On or after April 1, 2000, no person shall issue a prescription for a Schedule II controlled substance, which is a narcotic drug listed in Section 206 of this Act; or which contains any quantity of amphetamine or methamphetamine, their

salts, optical isomers or salts of optical isomers; phenmetrazine and its salts; gluthethimide; and pentazocine, other than on a written prescription; provided that in the case of an emergency, epidemic or a sudden or unforeseen accident or calamity, the prescriber may issue a lawful oral prescription where failure to issue such a prescription might result in loss of life or intense suffering, but such oral prescription shall include a statement by the prescriber concerning the accident or calamity, or circumstances constituting the emergency, the cause for which an oral prescription was used. Within 7 days after issuing an emergency prescription, the prescriber shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. The prescription shall have written on its face "Authorization for Emergency Dispensing", and the date of the emergency prescription. The written prescription may be delivered to the pharmacist in person, or by mail, but if delivered by mail it must be postmarked within the 7-day period. Upon receipt, the dispensing pharmacist shall attach this prescription to the emergency oral prescription earlier received and reduced to writing. The dispensing pharmacist shall notify the Department of Financial and Professional Regulation ~~Human Services~~ if the prescriber fails to deliver the authorization for emergency dispensing on the prescription to him or her. Failure of the dispensing pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescriber. All prescriptions issued for Schedule II controlled substances shall include both a written and numerical notation of quantity on the face of the prescription. No prescription for a Schedule II controlled substance may be refilled.

(Source: P.A. 91-576, eff. 4-1-00; 91-714, eff. 6-2-00.)

(720 ILCS 570/312) (from Ch. 56 1/2, par. 1312)

Sec. 312. Requirements for dispensing controlled substances.

(a) A practitioner, in good faith, may dispense a Schedule II controlled substance, which is a narcotic drug listed in Section 206 of this Act; or which contains any quantity of amphetamine or methamphetamine, their salts, optical isomers or salts of optical isomers; phenmetrazine and its salts; or pentazocine; and Schedule III, IV, or V controlled substances to any person upon a written prescription of any prescriber, dated and signed by the person prescribing on the day when issued and bearing the name and address of the patient for whom, or the owner of the animal for which the controlled substance is dispensed, and the full name, address and registry number under the laws of the United States relating to controlled substances of the prescriber, if he is required by those laws to be registered. If the prescription is for an animal it shall state the species of animal for which it is ordered. The practitioner filling the prescription shall write the date of filling and his own signature on the face of the written prescription, unless electronic prescription is authorized by federal law. The written prescription shall be retained on file by the practitioner who filled it or pharmacy in which the prescription was filled for a period of 2 years, so as to be readily accessible for inspection or removal by any officer or employee engaged in the enforcement of this Act. Whenever the practitioner's or pharmacy's copy of any prescription is removed by an officer or employee engaged in the enforcement of this Act, for the purpose of investigation or as evidence, such officer or employee shall give to the practitioner or pharmacy a receipt in lieu thereof. A prescription for a Schedule II controlled substance shall not be filled more than 7 days after the date of issuance. If the specific prescription is computer generated at the prescriber's office, the date does not need to be handwritten.

A written prescription for Schedule III, IV or V controlled substances shall not be filled or refilled more than 6 months after the date thereof or refilled more than 5 times unless renewed, in writing, by the prescriber.

(b) In lieu of a written prescription required by this Section, a pharmacist, in good faith, may dispense Schedule III, IV, or V substances to any person either upon receiving a facsimile of a written, signed prescription transmitted by the prescriber or the prescriber's agent or upon a lawful oral prescription of a prescriber which oral prescription shall be reduced promptly to writing by the pharmacist and such written memorandum thereof shall be dated on the day when such oral prescription is received by the pharmacist and shall bear the full name and address of the ultimate user for whom, or of the owner of the animal for which the controlled substance is dispensed, and the full name, address, and registry number under the law of the United States relating to controlled substances of the prescriber prescribing if he is required by those laws to be so registered, and the pharmacist filling such oral prescription shall write the date of filling and his own signature on the face of such written memorandum thereof. The facsimile copy of the prescription or written memorandum of the oral prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of not less than two years, so as to be readily accessible for inspection by any officer or employee engaged in the enforcement of this Act in the same manner as a written prescription. The facsimile copy of the prescription or oral prescription and the written memorandum thereof shall not be filled or refilled more than 6 months after the date thereof or be refilled more than 5 times, unless renewed, in writing, by the prescriber.

(c) Except for any targeted methamphetamine precursor as defined in the Methamphetamine Precursor Control Act, a controlled substance included in Schedule V shall not be

distributed or dispensed other than for a medical purpose and not for the purpose of evading this Act, and then:

(1) only personally by a person registered to dispense a Schedule V controlled substance and then only to his patients, or

(2) only personally by a pharmacist, and then only to a person over 21 years of age who has identified himself or herself to the pharmacist by means of 2 positive documents of identification.

(3) the dispenser shall record the name and address of the purchaser, the name and quantity of the product, the date and time of the sale, and the dispenser's signature.

(4) no person shall purchase or be dispensed more than 120 milliliters or more than 120 grams of any Schedule V substance which contains codeine, dihydrocodeine, or any salts thereof, or ethylmorphine, or any salts thereof, in any 96 hour period. The purchaser shall sign a form, approved by the Department of Professional Regulation, attesting that he has not purchased any Schedule V controlled substances within the immediately preceding 96 hours.

(5) (Blank). ~~a copy of the records of sale, including all information required by paragraph (3), shall be forwarded to the Department of Professional Regulation at its principal office by the 15th day of the following month.~~

(6) all records of purchases and sales shall be maintained for not less than 2 years.

(7) no person shall obtain or attempt to obtain within any consecutive 96 hour period any Schedule V substances of more than 120 milliliters or more than 120 grams containing codeine, dihydrocodeine or any of its salts, or ethylmorphine or any of its salts. Any person obtaining any such preparations or combination of preparations in excess

of this limitation shall be in unlawful possession of such controlled substance.

(8) a person qualified to dispense controlled substances under this Act and registered thereunder shall at no time maintain or keep in stock a quantity of Schedule V controlled substances defined and listed in Section 212 (b) (1), (2) or (3) in excess of 4.5 liters for each substance; a pharmacy shall at no time maintain or keep in stock a quantity of Schedule V controlled substances as defined in excess of 4.5 liters for each substance, plus the additional quantity of controlled substances necessary to fill the largest number of prescription orders filled by that pharmacy for such controlled substances in any one week in the previous year. These limitations shall not apply to Schedule V controlled substances which Federal law prohibits from being dispensed without a prescription.

(9) no person shall distribute or dispense butyl nitrite for inhalation or other introduction into the human body for euphoric or physical effect.

(d) Every practitioner shall keep a record of controlled substances received by him <u>or her</u> and a record of all such controlled substances administered, dispensed or professionally used by him <u>or her</u> otherwise than by prescription. It shall, however, be sufficient compliance with this paragraph if any practitioner utilizing controlled substances listed in Schedules III, IV and V shall keep a record of all those substances dispensed and distributed by him <u>or her</u> other than those controlled substances which are administered by the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means to the body of a patient or research subject. A practitioner who dispenses, other than by administering, a controlled substance in Schedule II, which is a narcotic drug listed in Section 206 of this Act, or which contains any

quantity of amphetamine or methamphetamine, their salts, optical isomers or salts of optical isomers, pentazocine, or methaqualone shall do so only upon the issuance of a written prescription blank by a prescriber.

(e) Whenever a manufacturer distributes a controlled substance in a package prepared by him or her, and whenever a wholesale distributor distributes a controlled substance in a package prepared by him or her or the manufacturer, he shall securely affix to each package in which that substance is contained a label showing in legible English the name and address of the manufacturer, the distributor and the quantity, kind and form of controlled substance contained therein. No person except a pharmacist and only for the purposes of filling a prescription under this Act, shall alter, deface or remove any label so affixed.

(f) Whenever a practitioner dispenses any controlled substance except a non-prescription targeted methamphetamine precursor as defined in the Methamphetamine Precursor Control Act, he shall affix to the container in which such substance is sold or dispensed, a label indicating the date of initial filling, the practitioner's name and address, the name of the patient, the name of the prescriber, the directions for use and cautionary statements, if any, contained in any prescription or required by law, the proprietary name or names or the established name of the controlled substance, and the dosage and quantity, except as otherwise authorized by regulation by the Department of Financial and Professional Regulation. No person shall alter, deface or remove any label so affixed as long as any of the specific medication remains in the container.

(g) A person to whom or for whose use any controlled substance has been prescribed or dispensed by a practitioner, or other persons authorized under this Act, and the owner of any animal for which such substance has been prescribed or

dispensed by a veterinarian, may lawfully possess such substance only in the container in which it was delivered to him or her by the person dispensing such substance.

(h) The responsibility for the proper prescribing or dispensing of controlled substances, which are under the prescriber's direct control, is upon the prescriber. The ~~and the~~ responsibility for the proper filling of a prescription for controlled substance drugs rests with the pharmacist. An order purporting to be a prescription issued to any individual, which is not in the regular course of professional treatment nor part of an authorized methadone maintenance program, nor in legitimate and authorized research instituted by any accredited hospital, educational institution, charitable foundation, or federal, state or local governmental agency, and which is intended to provide that individual with controlled substances sufficient to maintain that individual's or any other individual's physical or psychological addiction, habitual or customary use, dependence, or diversion of that controlled substance is not a prescription within the meaning and intent of this Act; and the person issuing it, shall be subject to the penalties provided for violations of the law relating to controlled substances.

(i) A prescriber shall not preprint or cause to be preprinted a prescription for any controlled substance; nor shall any practitioner issue, fill or cause to be issued or filled, a preprinted prescription for any controlled substance. A prescriber may use a computer type device to individually generate a printed prescription, however the prescriber is still required to affix the date of issuance and his or her original signature to the prescription, unless electronic signatures are authorized by federal law for controlled substances.

(j) No person shall manufacture, dispense, deliver, possess with intent to deliver, prescribe, or administer or

cause to be administered under his direction any anabolic steroid, for any use in humans other than the treatment of disease in accordance with the order of a physician licensed to practice medicine in all its branches for a valid medical purpose in the course of professional practice. The use of anabolic steroids for the purpose of hormonal manipulation that is intended to increase muscle mass, strength or weight without a medical necessity to do so, or for the intended purpose of improving physical appearance or performance in any form of exercise, sport, or game, is not a valid medical purpose or in the course of professional practice.

(Source: P.A. 94-694, eff. 1-15-06.)

(720 ILCS 570/313) (from Ch. 56 1/2, par. 1313)

Sec. 313. (a) Controlled substances which are lawfully administered in hospitals or institutions licensed under the "Hospital Licensing Act" shall be exempt from the requirements of Sections 312 and 316 except that the prescription for the controlled substance shall be in writing on the patient's record, signed by the prescriber, dated, and shall state the name, and quantity of controlled substances ordered and the quantity actually administered. The records of such prescriptions shall be maintained for two years and shall be available for inspection by officers and employees of the Department of State Police, and the Department of Financial and Professional Regulation.

(b) Controlled substances that can lawfully be administered or dispensed directly to a patient in a long-term care facility licensed by the Department of Public Health as a skilled nursing facility, intermediate care facility, or long-term care facility for residents under 22 years of age, are exempt from the requirements of Section 312 except that a prescription for a Schedule II controlled substance must be either a written prescription signed by the prescriber or a

written prescription transmitted by the prescriber or prescriber's agent to the dispensing pharmacy by facsimile. The facsimile serves as the original prescription and must be maintained for 2 years from the date of issue in the same manner as a written prescription signed by the prescriber.

(c) A prescription that is written for a Schedule II controlled substance to be compounded for direct administration by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion to a patient in a private residence, long-term care facility, or hospice setting may be transmitted by facsimile by the prescriber or the prescriber's agent to the pharmacy providing the home infusion services. The facsimile serves as the original written prescription for purposes of this paragraph (c) and it shall be maintained in the same manner as the original written prescription.

(c-1) A prescription written for a Schedule II controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII of the Social Security Act or licensed by the State may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The practitioner or practitioner's agent must note on the prescription that the patient is a hospice patient. The facsimile serves as the original written prescription for purposes of this paragraph (c-1) and it shall be maintained in the same manner as the original written prescription.

(d) Controlled substances which are lawfully administered and/or dispensed in drug abuse treatment programs licensed by the Department shall be exempt from the requirements of Sections 312 and 316, except that the prescription for such controlled substances shall be issued and authenticated on official prescription logs prepared and supplied by the Department. The official prescription logs issued by the Department shall be printed in triplicate on distinctively marked paper and furnished to programs at reasonable cost. The

official prescription logs furnished to the programs shall contain, in preprinted form, such information as the Department may require. The official prescription logs shall be properly endorsed by a physician licensed to practice medicine in all its branches issuing the order, with his own signature and the date of ordering, and further endorsed by the practitioner actually administering or dispensing the dosage at the time of such administering or dispensing in accordance with requirements issued by the Department. The duplicate copy shall be retained by the program for a period of not less than three years nor more than seven years; the original and triplicate copy shall be returned to the Department at its principal office in accordance with requirements set forth by the Department.

(Source: P.A. 91-576, eff. 4-1-00; 91-714, eff. 6-2-00.)

(720 ILCS 570/316)

Sec. 316. Schedule II and III controlled substance prescription monitoring program.

The Department must provide for a Schedule II and III controlled substance prescription monitoring program that includes the following components:

(1) The ~~Each time a Schedule II controlled substance is dispensed, the~~ dispenser must transmit to the central repository the following information:

(A) The recipient's name.

(B) The recipient's address.

(C) The national drug code number of the Schedule II controlled substance dispensed.

(D) The date the ~~Schedule II~~ controlled substance is dispensed.

(E) The quantity of the ~~Schedule II~~ controlled substance dispensed.

(F) The dispenser's United States Drug Enforcement

Administration ~~Agency~~ registration number.

(G) The prescriber's United States Drug Enforcement Administration ~~Agency~~ registration number.

(2) The information required to be transmitted under this Section must be transmitted not more than 7 ~~15~~ days after the date on which a ~~Schedule II~~ controlled substance is dispensed.

(3) A dispenser must transmit the information required under this Section by:

(A) an electronic device compatible with the receiving device of the central repository;

(B) a computer diskette;

(C) a magnetic tape; or

(D) a pharmacy universal claim form or Pharmacy Inventory Control form;

that meets specifications prescribed by the Department.

(4) The Department shall expand and operate the controlled substance monitoring program to include prescription data collection for Schedule III controlled substances contingent upon full funding from the authorized federal agency less incidental expenses.

(5) The controlled substance prescription monitoring program shall comply with the federal Health Insurance Portability and Accountability Act of 1996 and accompanying rules.

Controlled ~~Schedule II controlled~~ substance prescription monitoring does not apply to ~~Schedule II~~ controlled substance prescriptions as exempted under Section 313.

(Source: P.A. 91-576, eff. 4-1-00; 91-714, eff. 6-2-00.)

(720 ILCS 570/317)

Sec. 317. Central repository for collection of information.

(a) The Department must designate a central repository for

the collection of information transmitted under Section 316.

(b) The central repository must do the following:

(1) Create a database for information required to be transmitted under Section 316 in the form required under rules adopted by the Department, including search capability for the following:

(A) A recipient's name.

(B) A recipient's address.

(C) The national drug code number of a controlled substance dispensed.

(D) The dates a ~~Schedule II~~ controlled substance is dispensed.

(E) The quantities of a ~~Schedule II~~ controlled substance dispensed.

(F) A dispenser's United States Drug Enforcement Administration ~~Agency~~ registration number.

(G) A prescriber's United States Drug Enforcement Administration ~~Agency~~ registration number.

(2) Provide the Department with a ~~continuing 24 hour a day on-line access to the~~ database maintained by the central repository. The Department of Financial and Professional Regulation must provide the Department with electronic access to the license information of a prescriber or dispenser. The Department of Financial and Professional Regulation may charge a fee for this access not to exceed the actual cost of furnishing the information.

(3) Secure the information collected by the central repository and the database maintained by the central repository against access by unauthorized persons.

(Source: P.A. 91-576, eff. 4-1-00.)

(720 ILCS 570/318)

Sec. 318. Confidentiality of information.

(a) Information received by the central repository under Section 316 is confidential.

(b) The Department must carry out a program to protect the confidentiality of the information described in subsection (a). The Department may disclose the information to another person only under subsection (c), (d), or (f) and may charge a fee not to exceed the actual cost of furnishing the information.

(c) The Department may disclose confidential information described in subsection (a) to any person who is engaged in receiving, processing, or storing the information.

(d) The Department may release confidential information described in subsection (a) to the following persons:

(1) A governing body that licenses practitioners and is engaged in an investigation, an adjudication, or a prosecution of a violation under any State or federal law that involves a controlled substance.

(2) An investigator for the Consumer Protection Division of the office of the Attorney General, a prosecuting attorney, the Attorney General, a deputy Attorney General, or an investigator from the office of the Attorney General, who is engaged in any of the following activities involving controlled substances:

(A) an investigation;

(B) an adjudication; or

(C) a prosecution of a violation under any State or federal law that involves a controlled substance.

(3) A law enforcement officer who is:

(A) authorized by the Department of State Police to receive information of the type requested for the purpose of investigations involving controlled substances;

(B) approved by the Department to receive information of the type requested for the purpose of

investigations involving controlled substances; and

(C) engaged in the investigation or prosecution of a violation under any State or federal law that involves a controlled substance.

(e) Before the Department releases confidential information under subsection (d), the applicant must demonstrate in writing to the Department that:

(1) the applicant has reason to believe that a violation under any State or federal law that involves a ~~Schedule II~~ controlled substance has occurred; and

(2) the requested information is reasonably related to the investigation, adjudication, or prosecution of the violation described in subdivision (1).

(f) The Department may release data it collects under Section 316 to:

(1) state government prescription monitoring entities in other states per the provisions outlined in subsections (g) and (h) of this Section ~~a governing body that licenses practitioners~~;

(2) an investigator for the Consumer Protection Division of the office of the Attorney General, a prosecuting attorney, the Attorney General, a deputy Attorney General, or an investigator from the office of the Attorney General; or

(3) a law enforcement officer who is:

(A) authorized by the Department of State Police to receive the type of information released; and

(B) approved by the Department to receive the type of information released;

confidential information generated from computer records that identifies practitioners who are prescribing or dispensing large quantities of a ~~Schedule II~~ controlled substance as determined by the Advisory Committee created by Section 320.

(g) The information described in subsection (f) may not be

released until it has been reviewed by an employee of the Department who is licensed as a prescriber or a dispenser and until that employee has certified that further investigation is warranted. However, failure to comply with this subsection (g) does not invalidate the use of any evidence that is otherwise admissible in a proceeding described in subsection (h).

(h) An investigator or a law enforcement officer receiving confidential information under subsection (c), (d), or (f) may disclose the information to a law enforcement officer or an attorney for the office of the Attorney General for use as evidence in the following:

(1) A proceeding under any State or federal law that involves a ~~Schedule II~~ controlled substance.

(2) A criminal proceeding or a proceeding in juvenile court that involves a ~~Schedule II~~ controlled substance.

(i) The Department may compile statistical reports from the information described in subsection (a). The reports must not include information that identifies, by name, license or address, any practitioner, dispenser, ultimate user, or other person administering a controlled substance.

(j) Based upon federal, initial and maintenance funding, a prescriber and dispenser inquiry system shall be developed to assist the medical community in its goal of effective clinical practice and to prevent patients from diverting or abusing medications.

(1) An inquirer shall have only access to a stand-alone database which shall contain records for the previous 6 months.

(2) Dispensers may, upon positive and secure identification, make an inquiry on a patient or customer solely for a healthcare treatment as delineated with the federal Health Insurance Portability and Accountability Act of 1996.

(3) The Department shall provide a one-to-one secure

link and encrypted software necessary to establish the link between an inquirer and the Department. Technical assistance shall also be provided.

(4) Written inquires are acceptable but must include the requestor's state and Drug Enforcement Administration license numbers and must be submitted upon the requestor's business stationary.

(5) The Department shall establish, by rule, the specific inquiry process and work with the Prescription Drug Advisory Committee to develop a secure process which minimizes the expense to the Department as well as to prescribers and dispensers.

(6) No data shall be stored in the database beyond 6 months.

(7) Nothing in this Act shall be construed to require or establish any standard mandating any prescriber or dispenser to utilize the prescriber and dispenser inquiry system.

(Source: P.A. 91-576, eff. 4-1-00.)

(720 ILCS 570/319)

Sec. 319. Rules. The Department must adopt rules under the Illinois Administrative Procedure Act to implement Sections 316 through 318, including the following:

(1) Information collection and retrieval procedures for the central repository, including the ~~Schedule II~~ controlled substances to be included in the program required under Section 316.

(2) Design for the creation of the database required under Section 317.

(3) Requirements for the development and installation of on-line electronic access by the Department to information collected by the central repository.

(Source: P.A. 91-576, eff. 4-1-00.)

(720 ILCS 570/320)

Sec. 320. Advisory committee.

(a) The Secretary of Human Services must appoint an advisory committee to assist the Department in implementing the ~~Schedule II~~ controlled substance prescription monitoring program created by Section 316 of this Act. The Advisory Committee consists of prescribers and dispensers.

(b) The Secretary of Human Services must determine the number of members to serve on the advisory committee. The Secretary must choose one of the members of the advisory committee to serve as chair of the committee.

(c) The advisory committee may appoint its other officers as it deems appropriate.

(d) The members of the advisory committee shall receive no compensation for their services as members of the advisory committee but may be reimbursed for their actual expenses incurred in serving on the advisory committee.

(Source: P.A. 91-576, eff. 4-1-00.)

(720 ILCS 570/405) (from Ch. 56 1/2, par. 1405)

Sec. 405. (a) Any person who engages in a calculated criminal drug conspiracy, as defined in subsection (b), is guilty of a Class X felony. The fine for violation of this Section shall not be more than $500,000, and the offender shall be subject to the forfeitures prescribed in subsection (c).

(b) For purposes of this section, a person engages in a calculated criminal drug conspiracy when:

(1) he <u>or she</u> violates any of the provisions of subsection (a) or (c) of Section 401 or subsection (a) of Section 402; and

(2) such violation is a part of a conspiracy undertaken or carried on with two or more other persons; and

(3) he <u>or she</u> obtains anything of value greater than

$500 from, or organizes, directs or finances such violation or conspiracy.

(c) Any person who is convicted under this section of engaging in a calculated criminal drug conspiracy shall forfeit to the State of Illinois:

(1) the receipts obtained by him or her in such conspiracy; and

(2) any of his or her interests in, claims against, receipts from, or property or rights of any kind affording a source of influence over, such conspiracy.

(d) The circuit court may enter such injunctions, restraining orders, directions or prohibitions, or to take such other actions, including the acceptance of satisfactory performance bonds, in connection with any property, claim, receipt, right or other interest subject to forfeiture under this Section, as it deems proper.

(Source: P.A. 91-357, eff. 7-29-99.)

(720 ILCS 570/405.1) (from Ch. 56 1/2, par. 1405.1)

Sec. 405.1. (a) Elements of the offense. A person commits criminal drug conspiracy when, with the intent that an offense set forth in Section 401, Section 402, or Section 407 of this Act be committed, he or she agrees with another to the commission of that offense. No person may be convicted of conspiracy to commit such an offense unless an act in furtherance of such agreement is alleged and proved to have been committed by him or her or by a co-conspirator.

(b) Co-conspirators. It shall not be a defense to conspiracy that the person or persons with whom the accused is alleged to have conspired:

(1) Has not been prosecuted or convicted, or

(2) Has been convicted of a different offense, or

(3) Is not amenable to justice, or

(4) Has been acquitted, or

(5) Lacked the capacity to commit an offense.

(c) Sentence. A person convicted of criminal drug conspiracy may be fined or imprisoned or both, but any term of imprisonment imposed shall be not less than the minimum nor more than the maximum provided for the offense which is the object of the conspiracy.

(Source: P.A. 89-404, eff. 8-20-95; 90-593, eff. 6-19-98.)

(720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

Sec. 410. (a) Whenever any person who has not previously been convicted of, or placed on probation or court supervision for any offense under this Act or any law of the United States or of any State relating to cannabis or controlled substances, pleads guilty to or is found guilty of possession of a controlled or counterfeit substance under subsection (c) of Section 402, the court, without entering a judgment and with the consent of such person, may sentence him <u>or her</u> to probation.

(b) When a person is placed on probation, the court shall enter an order specifying a period of probation of 24 months and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(c) The conditions of probation shall be that the person: (1) not violate any criminal statute of any jurisdiction; (2) refrain from possessing a firearm or other dangerous weapon; (3) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and (4) perform no less than 30 hours of community service, provided community service is available in the jurisdiction and is funded and approved by the county board.

(d) The court may, in addition to other conditions, require

that the person:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical or psychiatric treatment; or treatment or rehabilitation approved by the Illinois Department of Human Services;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his or her dependents;

(6-5) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(7) and in addition, if a minor:

(i) reside with his or her parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his or her own support at home or in a foster home.

(e) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(f) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against him or her.

(g) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal, however, discharge and dismissal under this Section is not a conviction for purposes of this Act or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(h) There may be only one discharge and dismissal under this Section, Section 10 of the Cannabis Control Act, or Section 70 of the Methamphetamine Control and Community Protection Act with respect to any person.

(i) If a person is convicted of an offense under this Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act within 5 years subsequent to a discharge and dismissal under this Section, the discharge and dismissal under this Section shall be admissible in the sentencing proceeding for that conviction as evidence in aggravation.

(Source: P.A. 94-556, eff. 9-11-05.)

(720 ILCS 570/501) (from Ch. 56 1/2, par. 1501)

Sec. 501. (a) It is hereby made the duty of the Department of Financial and Professional Regulation and the Department of State Police, and their agents, officers, and investigators, to enforce all provisions of this Act, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, or of any State, relating to controlled substances. Only an agent, officer, or investigator designated by the Director may: (1) for the purpose of inspecting, copying, and verifying the correctness of records, reports or other documents required to be kept or made under this Act and otherwise facilitating the execution of the functions of the Department of Financial and Professional Regulation or the Department of State Police, be authorized in accordance with this Section to enter controlled premises and

to conduct administrative inspections thereof and of the things specified; or (2) execute and serve administrative inspection notices, warrants, subpoenas, and summonses under the authority of this State. Any inspection or administrative entry of persons licensed by the Department shall be made in accordance with subsection (bb) of Section 30-5 of the Alcoholism and Other Drug Abuse and Dependency Act and the rules and regulations promulgated thereunder.

(b) Administrative entries and inspections designated in clause (1) of subsection (a) shall be carried out through agents, officers, investigators and peace officers (hereinafter referred to as "inspectors") designated by the Director. Any inspector, upon stating his or her purpose and presenting to the owner, operator, or agent in charge of the premises (1) appropriate credentials and (2) a written notice of his or her inspection authority (which notice, in the case of an inspection requiring or in fact supported by an administrative inspection warrant, shall consist of that warrant), shall have the right to enter the premises and conduct the inspection at reasonable times.

Inspectors appointed by the Director under this Section 501 are conservators of the peace and as such have all the powers possessed by policemen in cities and by sheriffs, except that they may exercise such powers anywhere in the State.

(c) Except as may otherwise be indicated in an applicable inspection warrant, the inspector shall have the right:

(1) to inspect and copy records, reports and other documents required to be kept or made under this Act;

(2) to inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished drugs and other substances or materials, containers and labeling found therein, and all other things therein (including records, files, papers, processes, controls and facilities)

appropriate for verification of the records, reports and documents referred to in item (1) or otherwise bearing on the provisions of this Act; and

(3) to inventory any stock of any controlled substance.

(d) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this Section shall extend to:

(1) financial data;

(2) sales data other than shipment data; or

(3) pricing data.

Any inspection or administrative entry of persons licensed by the Department shall be made in accordance with subsection (bb) of Section 30-5 of the Alcoholism and Other Drug Abuse and Dependency Act and the rules and regulations promulgated thereunder.

(e) Any agent, officer, investigator or peace officer designated by the Director may (1) make seizure of property pursuant to the provisions of this Act; and (2) perform such other law enforcement duties as the Director shall designate. It is hereby made the duty of all State's Attorneys to prosecute violations of this Act and institute legal proceedings as authorized under this Act.

(Source: P.A. 88-670, eff. 12-2-94; 89-202, eff. 10-1-95.)

(720 ILCS 570/501.1) (from Ch. 56 1/2, par. 1501.1)

Sec. 501.1. Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein, but shall apply only to the Department of <u>Financial and</u> Professional Regulation, as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act which provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation or renewal of

the license is specifically excluded. For the purposes of this Act the notice required under Section 10-25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed to the last known address of a party.

(Source: P.A. 88-45.)

(720 ILCS 570/507) (from Ch. 56 1/2, par. 1507)

Sec. 507. All rulings, final determinations, findings, and conclusions of the Department of State Police, the Department of Financial and Professional Regulation, and the Department of Human Services of the State of Illinois under this Act are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision pursuant to the provisions of the Administrative Review Law, as amended and the rules adopted pursuant thereto. Pending final decision on such review, the acts, orders and rulings of the Department shall remain in full force and effect unless modified or suspended by order of court pending final judicial decision. Pending final decision on such review, the acts, orders, sanctions and rulings of the Department of Financial and Professional Regulation regarding any registration shall remain in full force and effect, unless stayed by order of court. However, no stay of any decision of the administrative agency shall issue unless the person aggrieved by the decision establishes by a preponderance of the evidence that good cause exists therefor. In determining good cause, the court shall find that the aggrieved party has established a substantial likelihood of prevailing on the merits and that granting the stay will not have an injurious effect on the general public. Good cause shall not be established solely on the basis of hardships resulting from an inability to engage in the registered activity pending a final judicial decision.

(Source: P.A. 89-507, eff. 7-1-97.)

Section 99. Effective date. This Act takes effect July 1, 2006.".